

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 15, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LANCE SCOTT MICHEL,

Defendant.

No. 2:24-CR-00028-MKD

ORDER GRANTING STIPULATED
MOTION REGARDING
COMPUTER FORENSIC REVIEW
PROCEDURES FOR SEXUALLY
EXPLICIT CONTRABAND

ECF No. 20

Before the Court is the parties' Stipulated Motion Regarding Computer Forensic Review Procedures for Sexually Explicit Contraband. ECF No. 20.

Given the nature of the allegations in this case, the parties move to impose forensic review procedures pursuant to 18 U.S.C. § 3509(m). The court has reviewed the record and the motion, including the parties' stipulations therein, and finds good cause to grant the motion.

Accordingly, **IT IS HEREBY ORDERED:**

1. The parties' Stipulated Motion Regarding Computer Forensic Review Procedures for Sexually Explicit Contraband, **ECF No. 20**, is **GRANTED**.

1 **2.** 18 U.S.C. § 3509(m) applies to this case, and the Court is required to
2 deny defense requests to copy, photograph, duplicate, or otherwise reproduce
3 material constituting child pornography if the United States makes the material
4 reasonably available to the Defendant and provides an ample opportunity for the
5 defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

6 **3.** In order to comply with 18 U.S.C. § 3509(m), and to allow the
7 Defendant the greatest opportunity to prepare an effective defense in preparation
8 for trial in this matter, the United States will make a true forensic copy of images
9 and extractions from devices and media containing alleged child pornography
10 contraband at issue in the above-referenced case. The United States will make that
11 forensic image reasonably available to the Defendant and provide ample
12 opportunity for the defense team to examine it at a government facility in Spokane,
13 Washington. The parties may readdress the Court if there is a need for additional
14 or after-hours access during the course of litigation or additional forensic review.

15 **4.** The defense forensic examination will be conducted in an interview
16 room monitored by closed-circuit television (“CC-TV”), without audio feed.
17 While the TV with non-audio feed will ensure the integrity of FBI space and
18 security of its occupants, the video feed is not of sufficient detail or at an angle that
19 would reveal defense strategy. The United States and its agents expressly agree
20 that no attempt will be made to record any audio from the workstation and that no

1 attempt will be made to observe the defense team’s work product or computer
2 monitor screen at any time. The defense expert may review the feed to ensure that
3 defense strategy is not being compromised at any time while conducting the
4 forensic review.

5 **5.** The defense team¹ shall not make, nor permit to be made, any copies
6 of the alleged child pornography contraband pursuant to this Protective Order and
7 shall not remove any contraband images from the government facility. The
8 defense expert will be allowed to copy any file that is not contraband and compile
9 a report (without contraband images/videos) documenting the examination on
10 removable media at the discretion of the defense expert.

11 **6.** The defense expert and investigator will leave at the government
12 facility any equipment, including hard drives, which contain child pornography
13 contraband that is identified during forensic evaluation.

14 **7.** For the purpose of trial, the United States agrees to make available a
15 digital copy of any government trial exhibit that contains contraband, which will be
16 kept in the custody and control of the case agent. Upon reasonable notice by the
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18 ¹ For purposes of this Protective Order, the term “defense team” refers solely to the
19 Defendant’s counsel of record (“defense counsel”), the Defendant’s designated
20 expert (“defense expert”), and a defense investigator.

1 defense, the case agent will also maintain for trial digital copies of any proposed
2 defense exhibit that contains contraband. If the defense team intends to offer,
3 publish, or otherwise utilize any government or defense exhibit contained on the
4 digital copy maintained by the case agent during trial, the case agent shall assist the
5 defense team in publishing or utilizing the exhibit that contains contraband upon
6 notification by the defense team.

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
8 and provide copies to all counsel.

9 **DATED** March 15, 2024.

10 *s/Mary K. Dimke*
11 MARY K. DIMKE
12 UNITED STATES DISTRICT JUDGE
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